

§ 1941.5

7 CFR Ch. XVIII (1-1-04 Edition)

Fish. Any aquatic gilled animal commonly known as “fish,” as well as mollusks or crustaceans (or other invertebrates) produced under controlled conditions (that is, feeding, tending, harvesting, and such other activities as are necessary to properly raise and market the products) in ponds, lakes, streams, or similar holding areas.

Joint operation. Individuals who have agreed to operate a farm or farms together as a business unit. The real and personal property is owned separately or jointly by the individuals. A husband and wife who want to apply for a loan together will be considered a joint operation.

Limited resources applicant. An applicant who is a farmer or rancher and is an operator of a small or family farm (a small farm is a marginal family farm), including a new operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a farm ownership or operating loan but, due to low income, cannot pay the regular interest rate on such loans. Due to the complex nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant will not have nor expect to obtain, without the special help and a low-interest loan, the income needed to have a reasonable standard of living when compared to other residents of the community.

Majority interest. Any individual or combination of individuals owning more than a 50 percent interest in a co-operative, corporation, joint operation, or partnership.

Nonfarm enterprise. Any nonfarm business enterprise, including recreation, which is closely associated with the farm operation and located on or adjacent to the farm and provides income to supplement farm income. This may include, but is not limited to, such enterprises as raising earthworms, exotic birds, tropical fish, dogs, and

horses for nonfarm purposes, welding shops, road stands, boarding horses and riding stables.

Partnership. An entity consisting of individuals who have agreed to operate a farm. This entity must be recognized as a partnership by the laws of the State(s) in which the partnership will operate a farm and must be authorized to own both real and personal property and to incur debt in its own name.

Primary security. Any real estate and/or chattel security which is required to adequately secure the loan. This is not to be confused with “basic security,” as defined in §1962.4 of subpart A of part 1962 of this chapter.

Related by blood or marriage. As used in this subpart, individuals who are connected to one another as husband, wife, parent, child, brother, or sister.

Rural youth. A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any city or town with a population of more than 10,000 inhabitants.

Rural youth projects. Modest projects initiated, developed, and carried out by rural youths participating in 4-H or Future Farmers of America, or similar organizations. Projects must produce enough income to meet expenses and debt repayment.

Security. Property of any kind subject to a real or personal property lien. Any references to collateral or security property shall be considered a reference to the term “security.”

State or United States. The United States itself, any of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[53 FR 35684, Sept. 14, 1988, as amended at 58 FR 26680, May 5, 1993; 58 FR 48283, Sept. 15, 1993; 61 FR 35925, July 9, 1996; 62 FR 9353, Mar. 3, 1997; 68 FR 7696, Feb. 18, 2003]

§ 1941.5 [Reserved]

§ 1941.6 Credit elsewhere.

The applicant shall certify in writing on the appropriate forms, and the County Supervisor shall verify and document, that adequate credit is not available, with or without a guarantee

or subordination, to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purposes and periods of time.

(a) If the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, this will be included in the loan docket.

(b) If the applicant cannot qualify for the needed credit from the lender(s) contacted, but one or more of them has indicated they would provide credit with an FmHA or its successor agency under Public Law 103-354 guarantee, or the County Supervisor determines that the applicant can obtain a guaranteed loan, the applicant will be advised to file an application with that lender(s) so that a guaranteed OL request can be processed by the lender(s) for consideration by FmHA or its successor agency under Public Law 103-354.

(c) Property and interest in property owned and income received by an individual applicant, or an entity applicant and all of its members as individuals will be considered and used by an applicant in obtaining credit from other sources.

(d) Applicants and borrowers will be encouraged to supplement operating loans with credit from other credit sources to the extent economically feasible and in accordance with sound financial management practices.

[43 FR 55883, Nov. 29, 1978, as amended at 68 FR 7697, Feb. 18, 2003]

§§ 1941.7-1941.10 [Reserved]

§ 1941.11 Applications.

Applications will be received and processed as provided in subpart A of part 1910 of this chapter, with consideration given to the requirements in exhibit M of subpart G of part 1940 of this chapter.

§ 1941.12 Eligibility requirements.

In accordance with the Food Security Act of 1985 (Pub. L. 99-198), after December 23, 1985, if an individual or any member of an entity is convicted under

Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of this subpart and is available in any FmHA or its successor agency under Public Law 103-354 office, for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA or its successor agency under Public Law 103-354 410-1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

(a) An individual must:

(1) Be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Except for youth loans, have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years) which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation.

(4) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(5) Except for youth loans, be the owner-operator or tenant-operator of